IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.5986 of 1998

Dated: 13-08-2007

Between:

Malkapuram Pentamma, w/o late M.Balaiah.

... Petitioner

and

1. The Joint Collector,
   Medak, at Sangareddy and 4 others.

... Respondents

ORDER:

Petitioner states that an extent of Acs.2-00 in S.No.314/2 was assigned to her under Laoni Rules,1950 and thereafter she made the said land cultivable and is in possession of the same. However, on a representation made by the un-official respondents herein first respondent – Joint Collector directed second respondent – Mandal Revenue Officer to hold an enquiry and submit a report. On such direction, the Mandal Revenue Officer without affording any opportunity to petitioner, made enquiries behind her back and submitted a report on

23-12-1995 saying that by the time of the said assignment itself i.e. in 1981, petitioner is in possession of an extent of Acs.6-33 guntas and the person to whom she was married also is having an extent of Ac.1-39 guntas. On the basis of the said report, the Joint Collector issued a notice to petitioner calling for her explanation and thereafter cancelled the said assignment, by an order dated 18-12-1997. The said order is questioned in this writ petition.

2. A detailed counter affidavit is filed on behalf of respondents 1 and 2, wherein it is stated that by the time of assignment itself, petitioner is having the lands and as such she is not entitled for assignment under the Laoni Rules and hence, it necessitated the first respondent to pass the impugned order.

3. Heard learned counsel for petitioner and learned Assistant Government Pleader.

4. Evidently, the said assignment was made in 1981 and petitioner was allowed to enjoy the said land for a period of 16 years and thereafter in 1997 the said assignment was cancelled on the ground that petitioner is not entitled for any assignment under the Laoni Rules. The Joint Collector while passing the order impugned relied on the report of the Mandal Revenue Officer dated 23-12-1995, wherein the Mandal Revenue Officer opined that the said assignment made in favour of petitioner is illegal.

The contention of the petitioner is that the said enquiry made by the Mandal Revenue Officer is behind her back and the same is not disputed in the counter affidavit. When once the Mandal Revenue Officer is holding an enquiry as to whether petitioner is really owning any extent, prior to the assignment or not, he ought to have afforded

sufficient opportunity to petitioner to explain as to whether she is having any landed property by the time of assignment. From the facts it appears that petitioner's father was owning an extent of about Acs.10-00 and from that it cannot be inferred that petitioner was having landed property prior to the assignment.

No doubt, petitioner's case is that she inherited the said property subsequent to the said assignment and as on the date of assignment she was a landless poor person. Hence, this Court is of the view that when the Mandal Revenue Officer held an enquiry he ought to have afforded sufficient opportunity to petitioner to establish the fact as to whether the said land i.e. Acs.6-33 guntas was inherited by her after the assignment or prior to the assignment. As the same is without affording any opportunity and the order passed by the Joint Collector is solely on the basis of the report of the Mandal Revenue Officer, this Court has no option except to hold that the said order dated 18-12-1997 is liable to be set aside.

5. Accordingly, the writ petition is allowed and the order dated 18-12-1997 passed by the Joint Collector is set aside and the Mandal Revenue Officer is directed to afford an opportunity to petitioner as well as

un-official respondents and submit a report to the Joint Collector and thereafter the Joint Collector may pass appropriate orders in accordance with law. No costs.

JUSTICE GOPALAKRISHNA TAMADA

Dt.13-08-2007
GLV